IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE

CRIMINAL WRIT PETITION NO.1010 OF 2004

Prabhakar S. Mudras ...Petitioner
Vs.
The Senior Inspector of Police
Colaba Police Station, Mumbai & Ors. ...Respondents

Mr.M.K.Kocharekar Adv. for Petitioner
Mr. I.S. Thakur, A.P.P. for the State

CORAM: B.H.MARLAPALLE & ROSHAN DALVI, JJ.
DATED: 27TH FEBRUARY, 2006

P.C.

1. Heard the learned Counsel for the Petitioner and the learned A.P.P. for the State.

2. This Petition is filed under Article 226 of the Constitution, prays for directions to the State Government to take action against the Police Officers responsible for the investigation regarding the unnatural death of the Petitioner's daughter- Neelima on 25th June 2002 and it is alleged that the Officers had shown lethargy in undertaking the investigation. The Petitioner further prays for directions to register the FIR in respect of the unnatural death of Neelima and transfer the investigation to any other independent investigation agency.

3. It appears that the Petitioner had approached the Maharashtra State Human Rights Commission vide his representation dated 28th October 2002 alleging sloppy

investigation by the concerned Police Officers. The representation came to be disposed off by the Commission vide its order dated 3rd December 2003 by noting that the investigation undertaken by the CID, Mumbai was incomplete and no Magistrate had certified that Neelima died an accidental death. The Commission also noted that it was a fit case for the State Government to take further actions against the Police Officers who failed to perform the duties and inform the Commission within a period of one month by submitting a report as to the action taken, under Section 18 of the Human Rights Act, 1993.

4. Mr.S.S.Mandlik, Police Inspector and Investigating Officer presently attached with DCP-CID, Unit-I, Mumbai has filed an affidavit in reply along with his report of investigation, submitted on 20th February 2005 to the Assistant Commissioner of Police, Colaba Division. The affidavit further states that an enquiry under Section 174 of Cr.P.C. was completed and closed on 20th April 2005.

5. Mr. Thakur, learned A.P.P. has shown us the order dated 20th April 2005 passed by the Executive Magistrate, Colaba Division, Mumbai recording that the death of Neelima was accidental and this is an order under Section 174 of Cr.P.C.

6. We have also perused the accidental death

report submitted by the Police Inspector, Crime Detection Branch along with affidavit in reply which shows that in the morning on 25th June 2002 Neelima met her friend Jaideep whom she was to marry, at about 10.00 a.m. near the Sandhurst Road Railway Station and thereafter both of them went to Cafe Mondegar at Colaba on motor-cycle. They had decided to go to a movie at Regal Theater, have lunch and then go home. They were together at Cafe Mondegar for about 1 hour 15 minutes, had their lunch and drinks. As per the investigation report Neelima asked Jaideep to pay the bill and went out to make a phone call, Jaideep paid the bill by his credit card and waited in the restaurant(Cafe) for more than 10 minutes, he came out, searched Neelima at the nearest STD booth and could not find her. While going towards his motorbike he saw some people gathered and when he went there, he saw that Neelima was lying on the road in a pool of blood. The police arrived at the scene and Neelima was taken to the St. George Hospital for treatment. Jaideep accompanied the police and the Doctor on examination declared that she was dead. It was revealed in the investigation that Neelima had jumped from the adjacent building i.e. Mercantile Building in front of Chikita Bar on Nathalal Parekh Marg, Colaba. It was also found that Neelima had left her purse with Jaideep and he had collected the said purse while leaving the restaurant. Prima facie we do not see any lapse in carrying out the investigations and

statements of the witnesses present around the scene i.e. the waiters from the restaurant and passersby who saw Neelima jumping down and also falling on the road, have been recorded. We do not see any reason, prima facie to suspect that Neelima's friend Jaideep Walinjkar is an abettor.

7. The State Government must report to the State Human Rights Commission regarding the action that it was supposed to take against the Police Officers concerned. So far as the prayer to transfer the investigation to any appropriate agency is concerned, we do not see any merit in the said prayer and therefore, the Petition is rejected.

(ROSHAN DALVI, J.) (B.H.MARLAPALLE, J.)